

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PROPOSED
37.12.401 pertaining to laboratory)	AMENDMENT
testing fees)	
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Interested Persons

1. On May 24, 2008, the Department of Public Health and Human Services proposes to amend the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you need to request an accommodation, contact the department no later than 5:00 p.m. on May 12, 2008, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena, MT 59620-2951; telephone (406)444-9503; fax (406)444-9744; e-mail dphhslegal@mt.gov.

3. The rule as proposed to be amended provides as follows. New matter is underlined. Matter to be deleted is interlined.

37.12.401 LABORATORY FEES FOR ANALYSES (1) Fees for clinical and environmental analyses performed by the laboratory of the Department of Public Health and Human Services are set to reflect the actual costs of the tests and services provided.

(2) The Department of Public Health and Human Services shall maintain a list of all tests available from the lab and the price of each test. The department adopts and incorporates by reference the Laboratory Test Fee List effective July 1, ~~2007~~ 2008, which shall be available on the web site of the Department of Public Health and Human Services at www.dphhs.mt.gov, and by mail upon request to the lab at the Department of Public Health and Human Services, Public Health and Safety Division, P.O. Box 6489, Helena, MT 59604-6489.

(3) The fee for a specific lab test will be lowered by the Department of Public Health and Human Services to a level not exceeding the cost to the department of the test in question whenever a change of analysis method warrants lower fees.

(4) Fees for analyses other than those listed will be established at the level of comparable analyses.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

4. ARM 37.12.401 provides information regarding the fees charged for biological and environmental tests performed by the Montana State Laboratory, in conformity with state statute. The Department of Public Health and Human Services (the department) proposes to modify the rules to reference the new version of the state laboratory fee list, which provides an average increase of 4% in the cost of lab services, though fee increases on a test-by-test basis vary. The revised fees are necessary to keep the fees charged for lab service in line with the actual current cost associated with providing that service.

The proposed fee increases will result in a cumulative increase in fees for all laboratory services of approximately \$125,000, affecting the approximately 1,000 annual customers of the state laboratory. The fee increases proposed represent the minimum increases necessary to maintain the state laboratory's current level of services, and are reasonably necessary to allow the state laboratory to fulfill its obligations as an adjunct to public health and health care functions in the state of Montana. The proposed fees account for the increased costs incurred by the laboratory since the last fee increase, including increased personnel costs, increased costs of supplies, and increased costs of new and replacement testing equipment.

The department considered not increasing its testing fees, but concluded that not doing so would result in the laboratory spending more to provide services than it would recover in service fees, and would result in the laboratory having to discontinue services.

The department will post the proposed revised fee list along with a copy of this notice in the rules notices section of the DPHHS web site at www.dphhs.mt.gov/legalresources/ruleproposals/index.shtml.

5. Interested persons may submit their data, views, or arguments concerning the proposed action in writing to Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena MT 59620-2951, no later than 5:00 p.m. on May 22, 2008. Comments may also be faxed to (406)444-9744 or e-mailed to dphhslegal@mt.gov. The department maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. To be included on such a list, please notify this same person.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a public hearing and submit this request, along with any written comments to Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena MT 59620-2951; by fax (406)444-9744; or by e-mail to dphhslegal@mt.gov no later than 5:00 p.m. on May 22, 2008.

7. If the Department of Public Health and Human Services receives requests

for a public hearing on the proposed action from either 10% or 25, whichever is less, of those who are directly affected by the proposed action, from the administrative rule review committee of the legislature, from a governmental agency or subdivision, or from an association having no less than 25 members who are directly affected, a hearing will be held at a later date and a notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 100 based on the 1000 customers affected by rules covering state laboratory fees and services.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice as printed in the Montana Administrative Register, but advises all concerned persons that, in the event of a discrepancy between the official printed text of the Notice and the electronic version of the notice, only the official printed text will be considered. The web site may be unavailable at times, due to system maintenance or technical problems.

9. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

/s/ John Koch
Rule Reviewer

/s/ Joan Miles
Director, Public Health and
Human Services

Certified to the Secretary of State April 14, 2008.